

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: FEB 14 1984

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application which you filed for recognition of exemption under Section 501(c)(3) of the Internal Revenue Code of 1954.

The evidence submitted indicates that you were organized on [REDACTED]. Your purpose is to manage and regulate a condominium for the benefit of all members. Your membership is composed of unit owners, your funds are obtained by assessments against members, and your funds are expended for the care, maintenance and protection of all buildings. Some of the services provided for the unit owners include trash collections, snow removal, lawn maintenance and supplies, insurance payments, and landscaping among other services.

Section 501(c)(3) of the Internal Revenue Code grants exemption to organizations that are organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in Section 501(c)(3) of the Code.

On the basis of the information submitted, it is our conclusion that you are neither organized nor operated exclusively for charitable purposes, or any other purposes of Section 501(c)(3). An organization that does not meet either the organizational or operational test does not qualify for exemption under Section 501(c)(3) of the Code.

You do not meet the organizational test, because you are organized for the purposes of performing services for the private economic benefit and convenience of the unit owners. In our judgement, this does not limit your activities to exclusively "charitable or educational purposes within the meaning of Section 501(c)(3) of the Code."

You are not operated for charitable or educational purposes because your exemption application shows that you are primarily performing services that your members would otherwise have to provide for themselves. Any benefit to the general public is merely incidental to the private benefit accruing to the unit owners, and therefore, your activities are not limited to exclusively charitable or educational purposes within the meaning of Section 501(c)(3) of the Code.

Accordingly, it is held that you are not exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, and contributions to you are not deductible by donors as provided by Section 170 of the Code. Therefore, you are required to file Federal tax returns on Form 1120.

We have also considered your application for recognition of exemption under Section 501(c)(4) of the Internal Revenue Code of 1954. Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but exclusively for the promotion of social welfare. Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterment and social improvements.

The concept of social welfare implies a service or program directed at benefiting the community rather than a private group of individuals. Your organization operates essentially for the private economic benefit and convenience of the unit owners by performing services that your members would otherwise have to provide for themselves. Thus, it is not primarily engaged in activities for the common good and general welfare of the people of the community. Accordingly, you do not qualify for exemption from Federal income tax under Section 501(c)(4) or any other section of the Internal Revenue Code.

It appears that your organization may elect to file under Section 528 to receive certain tax benefits which, in effect, permits exclusion of exempt function income from gross income. The election to file under Section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homesteaders Associations. However, if you do not elect to file under Section 528, you are required to file Federal Income Tax returns on Form 1120.

(3)

If you are in agreement with our findings, please sign, date and return one copy of the enclosed Forms 6018.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



Adams District Director

Enclosure: Publication 892
Form 6018